

# Kabbala and Halacha

by Rabbi Zev Kraines

## 1. Introduction

**K**abbala. The very word invokes mystery and uncertainty. Halacha. The very word invokes rationality and clarity. Yet, in a triumph of Torah scholarship, our great rabbis have successfully integrated these seemingly incongruent disciplines into a coherent system of halachic practice.

In these pages, I will neither attempt to define Kabbala nor to explain any of its teachings. Rather, I will explore the dynamics of its incorporation into the rulings and responsa of both classic and contemporary halachic authorities.

## 2. A Back-to-Front Integration

**I**n the context of the normative halachic process, the dynamics of this incorporation are atypical; in fact, they operate in reverse. Normally, one traces a halachic decision from its scriptural roots, through its primary Mishnaic and Talmudic sources and finally through to the halachic codes of the Rishonim and the Acharonim. In contrast, the *Zohar* and other associated kabbalistic works were only revealed in the end of the 13<sup>th</sup> Century. This was almost a millennium after the redaction of the Talmud and centuries

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after the compendi of the Geonim, the Rambam and the Baalei Tosafos. Perhaps more significantly, the *Zohar* does not play a part in the compilation of the *Tur*, a work representing the culminating synthesis of Ashkenazic and Sephardic halachic traditions.<sup>1</sup> As such, Poskim were confronted with the challenge of managing a back-to-front integration of novel and potentially conflicting teachings into a carefully developed, mature and authoritative halachic system.

Yet, ironically, the opinions of Rabbi Shimon Bar Yochai and the other Tannaim found in these works were contemporaneous with those recorded in the Mishna and thus, in a sense, their authority was greater than that of the Geonim and Rishonim. Moreover, the *Zohar* spoke with the commanding voice and absolute clarity of *Sod*, the long hidden esoteric teachings of the Sages alluded to in the Mishna and Talmud. This meant that its words could be conceived as direct divine messages of unassailable truth and not merely the consensual product of human intellect, however great, as recorded in the debates of the Talmud. As Prof. Jacob Katz opines, the Kabbala tended to assume “tacitly the role of the Halakha without resorting to its method of decision making.”<sup>2</sup>

### 3. The Authority of Talmud Bavli

**F**ortunately, there were already established principles for resolving conflicts between the Talmud and other authoritative halachic sources from the Tannaim and Amoraim.

As the Babylonian Talmud neared the final stages of its redaction, the Sages resolved that the determinations, which were accepted by the Academy under the leadership of Rav Ashi and Ravina, would have final halachic authority.<sup>3</sup> All subsequent schools and streams of traditional Judaism accepted this

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1. Written in 14<sup>th</sup> Century by Rabbi Yaakov, son of Rabbeinu Asher—the Rosh.

2. Prof. J. Katz, *Post-Zoharic Relations Between Halakha and Kabbalah*, pg. 284, in *Jewish Thought in the Sixteenth Century*, B. Cooperman ed. Harvard University Press, Cambridge, Mass., 1983.

3. *Bava Metzia* 86a; Rashbam, *Bava Basra* 130b.

judgment as axiomatic.<sup>4</sup> Rambam explains the authoritative rationale that underpins this decision:

All of these matters that are in the Talmud Bavli, all of Israel is obligated to abide by them. We are empowered to coerce every city and every country to act according to all of the ways that the sages of the Gemara established, to enforce their decrees and to uphold their legislation. This is because all of the matters of the Gemara were agreed upon by all the Sages of Israel. In addition, these sages . . . represented all of the Sages of Israel . . . that received the tradition of the fundamentals of the whole Torah, generation after generation back to Moshe, may peace be upon him.<sup>5</sup>

And yet, there were extant many primary Torah sources—*Yerushalmi*, *Sifra*, *Sifrei*, *Midrash Rabah* and other works—that did not undergo the meticulous final editing process so evident in every page of the Bavli. Many of these are compilations of Baraisos that were not edited by Rav Chia and Rav Oshia. Torah authorities, from the time of the Geonim, cautioned that these sources should not be relied upon to overturn the rulings of the Bavli:

Any Baraisa that conflicts with the Talmud is not accepted as Halacha. A Mishna is more exact than a Baraisa and yet, we find many instances when the Halacha is not like a Mishna as when the Talmud says the Mishna is the opinion of an individual Tanna, or that the Mishna is like Bais Shammai and therefore not halachically valid. All the more so a Baraisa that is contradicted by the Talmud.<sup>6</sup>

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4. Rif, *Eruvin* 35b; Rashbam, *Bava Basra* 130b.

5. Introduction to *Mishne Torah*. All translations in this article are paraphrased by the author for clarity and ease of reading.

6. *Seder Tannaim V'amoraim*, Section 2, 26. See also *Or Zarua*, vol. 2 Responsa 752. Cf. Responsa *Chasam Sofer*, Vol. 1, who rules that if a custom develops according to one of these sources, it is accepted. See also Rabbi Yoram Bogacz, *Explorations: Analysis of fundamental Talmudic discussions*, Chapter 5, available from [www.crink.co.za](http://www.crink.co.za).

The *Zohar* fits squarely into this same halachic model.<sup>7</sup> In fact, there were reasons to consider its halachic authority to be less than that of other sources. To begin with, the secrecy of its transmission over millennia and the mystery of its sudden publication by Rabbi Moshe De Leon led some Poskim to question the accuracy of its text.<sup>8</sup> Even the Bavli, whose text was open to public scrutiny, required constant editorial attention.

Moreover, the authority of the *Zohar* lies in the fact that its teachings were those of the great Rabbi Shimon Bar Yochai. Yet, the Talmud<sup>9</sup> ruled that, in terms of practical halacha, the opinions of Rabbi Shimon carry less weight than the opinions of Rabbi Yehuda, Rabbi Yossi and perhaps even Rabbi Meir. Accordingly, Rabbi Shimon's rulings, when in conflict with the decisions of the Bavli, would then be considered as the opinions of an individual Tanna. Even when the *Zohar* revealed holy and compelling kabbalistic reasons to support its position, the Poskim reasoned that the opinion of the other Tanna, which was accepted by the Bavli, was equally supported by holy and compelling reasons that were not revealed.

Rabbi Yaakov Emden, himself a learned kabbalist as well as a Posek, summarizes these concerns:

An opposing opinion [to the Talmud] found in the writings of the kabbalists, even when supported by hidden teachings, is not to be considered in practical halachic ruling. We consider it as an individual Baraisa, which was not edited in the Bais Ha-Midrash of Rav Chiya and Rav Oshiya. This is our approach to matters where the Yerushalmi disputes our Talmud. Even if you consider that the *Zohar* is attributed to Rabbi Shimon Bar Yochai, the other opinions in the Talmud are those of his fellow Tannaim who also had holy kabbalistic reasons, which were not appropriate to be revealed in the Talmud.<sup>10</sup>

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7. J. Katz, *Yachasei Halacha v'Kabbala* pg. 59, *Daat*, 5 (1980), quoted in M. Sendor, "The Rule for the Admissibility of Kabbalah in Halacha" in *Be'erot Yitzchak: Studies in Memory of Isadore Twersky*, pg. 273, J. Harris ed., Harvard University Press, Cambridge, Mass, 2005. Katz compares the halachic pronouncements of the *Zohar* to halachic Midrashim, and not to the more ambiguous, less weighted Aggadic sources.

8. Responsa *Teshuva Mey-'ahava*, vol. 1, 26.

9. *Eyruvin* 46b.

10. Responsa *She'ailas Yavetz*, vol. 1, 26; cf. *Sefer Yuchasin, Maamar Rishon*, paragraph: Rabi Shimon Bar Yochai.

There was also the question, which we will explore, whether its pronouncements were meant for all to follow or as guidelines for the especially righteous seeking perfection in Divine service.<sup>11</sup> Even when its rulings were assumed to be applicable to all Jews, they clearly had to be weighed and prioritized together with other halachic imperatives.

This last point is illustrated by a question addressed to the *Chacham Tzvi*:<sup>12</sup> if a person comes late to *Shacharis*, can he abridge his recitation of the *Pesukei d'zimra*, as allowed by the Poskim, in order to participate in *tefilla betzibur* or must he read the Psalms in their proper order, taking heed of Rabbi Shimon Bar Yochai's exhortations in the *Zohar* that such abridgements pervert the spiritual energies of prayer? The *Chacham Tzvi* responds that the ideal of maintaining the order of the *Pesukei Dezimra*, exalted by the *Zohar*, cannot be greater than the ideal of *tefilla be-tzibur* that is given great weight in the Talmud and indeed extolled greatly by Rabbi Shimon in the *Zohar* as well.

#### 4. Sealed With a Thousand Locks

The *Chacham Tzvi* then warns against relying on our understanding of the *Zohar* over the rulings of the Poskim. He asserts that, in his experience, this has led to gross distortions, for the wisdom of the *Zohar* is obscure and "sealed with a thousand locks." This cautionary note is a recurrent motif even among the Poskim who have incorporated many kabbalistic rulings in their works. Most striking is the admonition of the Ari-zal himself, as reported by Rabbi Chaim Vital, his major disciple:

One finds many different and contradictory statements in the *Zohar*. Without proper grasp of its foundations he will construct faulty and patchwork conclusions, as is common among those that attempt the study of the *Zohar* with their human intellect.<sup>13</sup>

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11. Responsa Rabbi Eliyahu Mizrachi, Vol. 1, 61.

12. Responsa *Chacham Zvi*, 36.

13. *Shaar Hakavanos* p.. 5b, cited in Responsa *Rav Pealim*, Rabbi Yosef Chaim, Vol.3, *Sod Yesbarim* 1. See also Responsa Maharshal, 98.

We can trace in these words of warning a vigilance, which grew in intensity after the debacles of Shabbesai Tzvi and Jacob Frank, whose pseudo-kabbalistic interpretations succeeded in misleading their followers to perverse behavior and even led to apostasy and baptism.<sup>14</sup> The decree of the Council of the Four Lands, promulgated in 1756, limiting Kabbala study to scholars over the age of 40, illustrates the severity of this apprehension.<sup>15</sup> It is well known that this same concern informed the conservative attitude of many Poskim towards the development of new halachic norms based on the *Zohar*, and especially on the writings of the Ari-zal in the tumultuous first generations of the Chassidic movement. The opposition of the *Noda BiYehuda* to the recitation of *Leshem Yichud*<sup>16</sup> is but one example of this.

A crucial role in calming these controversies was played by the towering halachic authority of the age, who was also its greatest kabbalist: the Vilna Gaon. As an unrivaled master of the *Zohar* and the *Tikkunim*, he was uniquely qualified to assert that any perceived conflict between the Kabbala and the decisions of the Talmud were the product of a misunderstanding of one or both of the sources.<sup>17</sup> Indeed, every student of Halacha will be aware that the Gaon applied his profound understanding of both disciplines to still the major controversies of Kabbala and Halacha, such as *tefillin* of Rabbeinu Tam, at least for Ashkenazic Jewry.<sup>18</sup>

## 5. The Magen Avraham's Three Principles

**G**uidelines for processing these conflicts were culled by the *Kenesses Hagedola* (by Rabbi Chaim Benveniste), from several responsa of Rav

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14. Responsa *Teshuva Mey-ahava ad loc.* See also Responsa *Chasam Sofer* Vol. 1, *Orach Chaim*, 51.

15. *The Transmission of Kabbalah*, p. 21. Introduction of Rabbi Yitzchak Stern to *Shomer Emunim Hakadmon*, 1965. Translated by Rabbi David Sedly, Torahlabs, 2008. See commentary of *Shach*, 6, to *Shulchan Aruch* YD 246. 21. The Council of Four Lands (*Va'ad Arba Aratzos*) in Lublin, Poland was the central body of Jewish authority in Poland from 1580 to 1764.

16. Responsa *Noda BiYehuda*, *Kama*, 93.

17. *Kesser Rosh*, 15, end of *Siddur HaGra Ishei Yisrael* in back.

18. Cf. *Aruch Hashulchan*, *Orach Chaim*, 25, 29.

David Zimra (Radvaz), Rabbi Eliyahu Mizrachi and other early Acharonim.<sup>19</sup> These guidelines were quoted by the *Magen Avraham*<sup>20</sup> and accepted by all later authorities. *Magen Avraham* sets down three principles, which we will attempt to clarify:

1. In any matter that the Kabbalists and the Zohar conflict with the Gemara, follow the Gemara and the Poskim.
2. However, if the Kabbalists are more strict, one should follow the stricter view as well.
3. We are not empowered to force the people to follow any matter that is not mentioned in the Poskim, even if it is mentioned in the Kabbala.

## 6. Principle One—Conflict with Gemara or with Poskim

The first principle would seem to be well understood according to the precedents we have already explored regarding conflicts between any external Rabbinic source and the Bavli. However, the ambiguity of the statement “follow the Gemara and the *Poskim*” gives rise to several questions.

Who are these Poskim with the authority to stand against the powerful pronouncements of the *Zohar* and the Kabbalists? What if there is no clear conflict between the *Zohar*/Kabbalists and the actual text of the Talmud, but rather with the interpretation of the Talmud by the consensus of the Poskim or even some of them? In addition, who are the Kabbalists with the authority to speak for the *Zohar*?

Though the Radvaz<sup>21</sup> does not specify to which Poskim he was referring, chronologically, he would have to be referring to the compendia and the responsa of the Rishonim, who preceded him. Their rulings could be considered as primary sources, as they were directly derived from the Talmud and thus would share in its authority.<sup>22</sup>

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19. Responsa *Kenneses Hagedolah, Orach Chaim, Clalei HaPoskim*, 1,2.

20. Commentary of *Magen Avraham*, 11 to *Shulchan Aruch Orach Chaim* 25.

21. Who lived in the sixteenth century.

22. See *Shulchan Aruch* of R. Shlomo Zalman of Liadi, *op. cit.*

The extrapolations of the Acharonim, by implication, could indeed be challenged by the Tannaitic clarity of the *Zohar*. This can be illustrated by the instruction of the *Magen Avraham* to sit while donning the *tefillin* of the arm, in order to accommodate the *Zohar's* exhortation, while honoring the prevailing ruling by standing for the *beracha*.<sup>23</sup> He considered this congruent with the principles of the Radvaz, as the accepted practice of standing for the arm *tefillin* was based on an implied analogy to the donning of the *talis* and not from an explicit source.<sup>24</sup>

## 7. Roots of Sephardic and Ashkenazic Divergence

The most significant early authority to boldly incorporate the *Zohar* in his halachic calculations was Rabbi Yosef Karo in his *Bais Yosef* commentary to the *Tur*, which is the basis for his *Shulchan Aruch*.<sup>25</sup> Though he does not quote the Radvaz, his contemporary, he independently asserts that even if the Poskim would have been aware of the yet unpublished opinions of Rabbi Shimon Bar Yochai, they would not have been swayed by them when in direct conflict with the clear ruling of the Talmud.<sup>26</sup>

Yet, the *Bais Yosef* diverges from the approach of the Radvaz<sup>27</sup> in a case where the language of the Talmud can support several interpretations and the Halacha rests on the authority of the Poskim alone. In such a case, the Radvaz states openly that the Poskim—or even one Posek<sup>28</sup>—should be granted authority over the *Zohar*. The *Bais Yosef*, in contrast, holds that in

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23. *Magen Avraham op. cit.*

24. See *Mishna Berura op. cit.* This is another example where the Gaon of Vilna claims that the *Zohar* was misunderstood. See also Responsa Maharshal, 98.

25. The approach of the *Bais Yosef* is adumbrated in a responsa of his uncle, R. Yitzchak Karo, found at the end of *Shut Bais Yosef* 385b. R. Yitzchak gives weight not only to the *Zohar* but to unnamed Kabbalists over the Poskim in cases of dispute. M Sendor *op. cit.*, pg. 272-273. See also: M. Benayahu *Vikuach HaKabbala Im HaHalacha: Limeiraishiso Bisefarad Daat* 5 (1980) pg. 65.

26. *Bais Yosef Orach Chaim* 25, 5.

27. Responsa *Bais Dino Shel Shlomo, Orach Chaim*, 12; *Kaf Hachaim, Orach Chaim*, 25, 75.

28. Responsa *Michtav Lechezkiah*, 7, in *Sedeh Chemed* Vol. 10.

these cases the clarity of the *Zohar* is accepted as Halacha.<sup>29</sup>

This view of the *Bais Yosef* is challenged by the Ashkenazic Rabbi Moshe Isserles, the Rema, in his *Darchei Moshe* commentary.<sup>30</sup> Their dispute revolves on the now familiar innovation that people called to the Torah recite their own *berachos*, yet do not read from the scroll themselves; rather, a Reader (*baal koreh*) reads in their stead. Though this case was not addressed directly in the Talmud, the Poskim opined that to prevent the *berachos* from being in vain, the one who recited the *berachos* must read along as well. The *Bais Yosef*, however, cites the opinion of the *Zohar*, which warns against two people reading from the Torah at the same time, and subsequently rules:

Now that the *Shliach Tzibbur* is the Reader, the one called up is forbidden to read. Even though according to the Poskim he must read and if he does not, his *berachos* are in vain, since this matter is not mentioned in the Talmud explicitly, we do not abandon the words of the *Zohar* because of the words of the Poskim.<sup>31</sup>

The Rema, after demonstrating that the words of the *Zohar* can be easily reconciled with the ruling of the Poskim, responds:

One must not deviate from the words of the Poskim even when the words of the *Zohar* differ from them . . . This is not like the opinion of the *Bais Yosef*, who writes that we do not abandon the words of the *Zohar* because of the Poskim and, thus, found it necessary to make an halachic compromise between them.

The clash between the *Bais Yosef* and the *Darchei Moshe* emerges again in the context of the laws of the *gid hanashe* (the forbidden thigh tendon). The *Tur*<sup>32</sup> rules according to the opinion of Rabbi Yehudah that, though it is prohibited to eat the *gid hanashe*, it is permitted to benefit from it in other ways.<sup>33</sup> The

29. In the case of *tefillin* on Chol Hamoed, the *Bais Yosef* accepts the *Zohar* proscription even over the ruling of the Yerushlami that donning them is obligatory! *Bais Yosef Orach Chaim* 31; cf. J. Katz *op. cit.* P. 304.

30. The Ashkenazic/Sephardic divergence has been traced in the halachic imbroglio regarding Levirate marriage vs. Chalitzah almost a century earlier. See J. Katz *op. cit.*, pgs. 296-7.

31. *Orach Chaim* 141. See *Shulchan Aruch* and *Mishna Berura ad loc.*

32. *Shulchan Aruch Yore Deah* 65, 10.

33. *Pesachim* 22a.

*Bais Yosef* accepts this ruling and even codifies it in the *Shulchan Aruch*.<sup>34</sup> Yet, he adds that since the *Zohar* opines that it is forbidden to benefit from the *gid hanashe*, it is appropriate to be strict in the matter. The *Darkei Moshe*<sup>35</sup> however, objects that the opinion of Rabbi Shimon Bar Yochai in the *Zohar* is that of the self-same Rabbi Shimon of the Mishna who argues with the accepted ruling of Rabbi Yehuda!

Yet, the *Darkei Moshe's* attempt to reconcile the *Zohar* with the Poskim is noteworthy as it implies that without this reconciliation he could have shifted the halachic balance to the *Zohar's* view, as does the *Bais Yosef*. In fact, so concludes Rabbi Yekusiel Yehuda Halberstam.<sup>36</sup> In the same manner, Rabbi Yaakov Emden, the great Ashkenazic Posek and strident opponent of any perceived tampering with halachic norms because of pseudo-kabbalistic reasons, asserts that greater effort should be made to align the Poskim with the *Zohar* and find ways to interpret the Talmud in a way which agrees with the *Zohar*.<sup>37</sup>

Indeed, there are isolated cases of Ashkenazic Poskim inclining towards the *Zohar* and the kabbalists over the decisions of earlier authorities when those decisions were not directly based on the clear intention of the Bavli. As an example, the Maharil<sup>38</sup> set out an order for the Pesach Seder plate which enabled the leader to reach for each food in sequence without contravening the Halacha forbidding “passing over a mitzvah.” This order was codified by the Rema.<sup>39</sup> Yet, Rabbi Avraham Danziger, (incidentally, a *mechutan* of the Gaon of Vilna), in his *Chayei Adam* records that by the early 1800's the custom in Lithuania was to set the plate according to the kabbalistic order of the Arizal.<sup>40</sup> This can be justified by the fact that the Maharil himself acknowledged that there was no clear violation of the Talmudic restriction on “passing over a mitzvah” in the setting out of the plate.

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34. *Ibid.*

35. *Ibid.*

36. Responsa *Divrei Yatziv* 1, 2.

37. See above Section 4, the approach of the Vilna Gaon.

38. *Minhagim, Seder Ha'Haggada*, 11.

39. *Orach Chaim*, 473, 4.

40. *Chayei Adam, Klal*, 130.

Yet this example and others like it are the exceptions in Ashkenazic halachic tradition.<sup>41</sup> A survey of many cases in point reveals that in the vast majority of cases, the opinion of the Poskim, even when not based on direct Talmudic sources, is upheld over the words of the Kabbala. As we have seen, this is directly attributable to the stance of the Rema, the Gaon of Vilna, and the *Magen Avraham*.

## 8. Principle Two—‘However, If the Kabbalists Are More Strict, One Should Adopt the Stricter View’

Taken at face value, this principle would seem to indicate that every Jew should observe all stringencies of the *Zohar*. This would be an unlikely answer to the legitimate query of whether *any* of the *Zohar*’s exhortations, hidden for so many centuries, were meant for general practice. Surely, as a rule, any opinion more stringent than the Talmud would fall in the category of *midas chassidus* (a stringent behavior meant for only the extremely pious), unless specifically adopted by the Poskim as proper practice.

However, in the full responsa of the Radvaz,<sup>42</sup> cited in brief by the *Magen Avraham*, the text reads, “if the Kabbala is more strict than the Talmud, I follow it.” This would mean only that the Radvaz was strict upon himself; at most, it can be construed as a suggestion for *midas chassidus*. Perhaps this is why the *Aruch Hashulchan* chose to paraphrase the *Magen Avraham* and write: “If the *Zohar* is more strict, he who wishes to follow it may do so.”<sup>43</sup> Even the Chassidic authority, Rabbi Shneur Zalman of Liadi, chooses to synthesize the *Magen Avraham* with the primary sources and writes: “When the kabbalists are more strict, one should be strict as well, but we cannot impose this on the community.” Thus, these authorities understood that the *Magen Avraham* meant to recommend and encourage these rulings, but not to make them obligatory.

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41. See *Shulchan Aruch, Orach Chaim*, 3 and *Mishna Berura* about placement of the bed between north and south. For dissenting view, see Responsa *Masa Binyamin Orach Chaim*, 62. Interestingly, the *Masa Binyamin* was a student of Rema and Maharshal.

42. Responsa vol.4, 80. This full version is quoted in Responsa *Kenneses Hagedolah, Orach Chaim, Clalei HaPoskim*, 1,2, that is the source of the *Magen Avraham*.

43. *Orach Chaim*, 25, 29.

## 9. Principle 3—‘We Are Not Empowered To Force the People To Follow Any Matter That Is Not Mentioned In the Poskim, Even If It Is Mentioned In the Kabbala’

The third principle of the *Magen Avraham* merely states, in the negative sense, that we are not empowered to impose kabbalistic practices on the community. The *Chacham Tzvi*,<sup>44</sup> basing himself on the actual words of the Radvaz,<sup>45</sup> asserts that this principle implies the positive sense, that whenever there is no conflict between the *Zohar* and the Poskim, an individual should strive to follow the *Zohar*. This principle is different from the second principle in that it refers to practices that are new halachic practices, not merely more stringent forms of existing practices.<sup>46</sup>

Ironically, the *Magen Avraham*, who defines the limits of kabbalistic influence, has also been popularly credited as a foremost promoter of including many kabbalistic practices into daily Halacha.<sup>47</sup> However, these inclusions never conflict with accepted norms; rather, they enhance and enrich Halacha in one of several of the following ways.

Some of them provide supplementary details not explicit in the Talmud. For example, the *Magen Avraham* cites the *Zohar* that one should consume fish at all three meals of Shabbos.<sup>48</sup> Other inclusions instruct one how to perform Mitzvos in a way that corresponds with inner kabbalistic meanings. Thus, he cites the Ari-zal that upon awakening, as one passes the *netilas yadayim* cup from the left to the right hand, one should focus on the symbolic meaning of the interrelation of the right and the left.<sup>49</sup> In another case, he advises to take heed of warnings from Kabbala that certain activities not forbidden by the

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44. Responsa *Chacham Tzvi*, 36.

45. Responsa Radvaz Vol. 4, 36.

46. See M Sendor, op. cit., pg. 274, who cites a possible precedent to this approach from R. Amram Gaon regarding the Tosefta: “Any Baraisa that is not contradicted by the Talmud . . . the accepted law is according to it.” He also cites that *Mevo Hatalmud* of R. Shmuel Hanagid (993-1056 CE) also defines the proto-kabbalistic Tannaitic work *Osios d’Rabi Akiva* as a Baraisa which would be halachically authoritative in the absence of contradiction with the Talmud.

47. He also is credited with granting greater halachic credence to the works of the Ari-zal by including them broadly in his work.

48. O.C. 242, 1.

49. *Ibid.* 2, 3.

Talmud, such as visiting a grave twice in one day,<sup>50</sup> may nonetheless expose one to negative spiritual forces.

## 10. The Opinion of the Gaon of Vilna

The Gaon's fascinating view, mentioned above, is recorded in *Kesser Rosh*, a remarkable compilation of the teachings and aphorisms of R. Chaim of Volozhin, his major disciple.<sup>51</sup>

Our teacher said in the name of the Gra that the Zohar is not in disagreement with the Gemara in any place. However, the people don't know the meaning of the Gemara or the Zohar. Except in one Halacha which I observe in accordance with the Zohar Hakadosh: not to pass within four amos on all sides of one who is praying—for in the Gemara, only passing in front is mentioned. And even in that case the Zohar is not in conflict, as it is only more strict.

Yet, this famous and authoritative guideline seems to be inconsistent with many of the numerous sources we have quoted. How could the Gaon state that the *Zohar* is never in conflict with the Talmud? As we have explained, the rulings of Rabbi Shimon bar Yochai may indeed be expressed as Halacha in the *Zohar*, though the ruling of the Bavli may follow other Tannaim. (The allowance of benefiting from the *gid hanashe*, paragraph 7 *infra*, is just one example of this.) As such, how do we understand the Gaon's dictum? After all, it would seem incorrect to state that the *Zohar* is never in conflict with the Talmud, just as it would be untrue to state that the Tosefta or the Yerushalmi are never in conflict with the Bavli.

I believe that the words of the Gaon can be understood in light of a similar statement by the *Aruch Hashulchan*,<sup>52</sup> which appears to paraphrase the tradition of the Gaon:

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50. O.C. 581.

51. See note 18 above.

52. *Aruch Hashulchan*, O.C. 25, 29.

However, I have a tradition that the *Zohar* is never in conflict with the Gemara, unless in the Gemara itself there is a dispute. But, where the Halacha is ruled clearly in the Gemara, the *Zohar* also holds the same. Perhaps there are cases where they [the commentators] did not explain in this way, but they did not understand the truth, as we must explain the *Zohar* in a way that corresponds to the Gemara.

The underlying assumption of this tradition is the integrated unity of the different levels of interpretation of the Torah, from its simple meanings to its kabbalistic allusions,<sup>53</sup> so that there can be no contradiction between them, a recurrent theme in the writings of the Gaon. Thus, either the *Zohar* must be consistent with the Talmud or, alternatively, one of the sources must be misunderstood. As prefaced, the credibility of this line of reasoning rests on the total grasp of the revealed and hidden Torah possessed by the Gaon.

The exceptions to this rule are, of course, those places where the *Zohar* expresses an opinion more stringent than the Talmud as a *midas chassidus*. These, we have seen, are not considered to be in conflict with the Bavli, as acknowledged above by the Gaon himself.

Yet, it would seem puzzling that the Gaon identifies the stringency of not passing within four *amos* on all sides of one who is praying as a unique exception to his rule. Clearly, the Gaon observed that many stringencies of the *Zohar* are brought by the *Shulchan Aruch* and Poskim. In what way was this practice exceptional?

An approach to this problem can be gleaned fortuitously from a parallel ruling of the *Aruch Hashulchan*.<sup>54</sup> He cites the opinion of the *Zohar* that prohibits passing within four *amos* on all sides of one who is praying and expresses his puzzlement that the *Zohar* could conflict with the Gemara. He then proceeds, in compliance with his own rule, to interpret the *Zohar* in a way that makes it consistent with the Talmud.

Yet, this would seem unnecessary, as he could easily explain the *Zohar* as simply being more stringent than the Talmud, in line with the second principle of the *Magen Avraham*. However, a closer look at his words indicates that he means that the *Zohar's* supposed prohibition of passing on all sides of the one

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53. Referred to as *Pardes*, an acronym for *Peshat, Remez, Drush, Sod*—four modes of Torah interpretation, ranging from simple translation to kabbalistic allusion.

54. *Aruch Hashulchan*, O.C. 102, 12.

praying, even behind him, would have to be based on an idea not discussed in the Talmud. The Talmud is clearly only concerned with disturbing the concentration of the one who is praying by passing in front of him. Thus, the *Zohar* is not defined as a stringent extension of Talmudic law, but rather as a wholly new concept. This was not acceptable to the *Aruch Hashulchan*, according to the aforementioned tradition that he received in these matters.

We can now explain why the Gaon identified this case as the sole example of something in conflict with the Talmud, which he nevertheless followed. In light of the above, we can venture to say that he held that, though the *Zohar's* opinion is based on a concept not discussed in the Talmud, he felt it should nevertheless be followed since ultimately it involves a stringency related to the honor of prayer, even though this stringency is due to a consideration not mentioned in the Talmud. Presumably, the Gaon held that this case was exceptional because all other halachically accepted zoharic stringencies could be seen as extensions of the core law based on the same considerations as the core law, while this stringency is based on another consideration.

Interestingly, it is none other than the *Magen Avraham* who originally cites the *Zohar's* stringency as a proper observance. Seemingly, this stringency fits, comfortably or uncomfortably, into his second aforementioned principle

## 11. Kabbalistic Thoughts and Intentions

**W**e have noted that many of these practices are expressions of the kabbalistic ideas that accompany them. The question then arises whether these practices are actually meant for those who do not understand their allusions. This is in addition to the concern of the Poskim, also noted above, that these allusions can often be misunderstood, resulting in disastrous consequences. Rather, the question is whether these practices, even when executed with pious intent, are hollow and lifeless when performed without the kabbalistic understanding that is their heart and soul.

Rabbi Eliyahu Mizrachi of Constantinople, a contemporary of the Radvaz and *Bais Yosef*, opined:

We are not able to impose these practices on the people. Even though the kabbalists spoke of them, they spoke of them only as allusions for themselves, as

they were expert in them. But we, with our many sins . . . would that we focused on the straightforward meaning of the words that come out of our lips . . . We have not heard of any of the great kabbalists imposing on the people to focus on matters that allude to sublime matters, when these things are not mentioned by the Sages of the Talmud nor by the Poskim that came after them.<sup>55</sup>

Rabbi Eliyahu Shapiro, author of *Elya Rabah*, was a disciple and later a colleague of the *Magen Avraham*. Commenting on the kabbalistic practice recorded by the *Shelah Hakadosh*,<sup>56</sup> to utilize 26 loaves of challah at the Shabbos table in a specific order and with specific recitations accompanied by certain thoughts, he concludes:

Therefore, this should not be performed except by one expert in the wisdom of the Kabbala. In addition, there is no reference to this in the Talmud, and it does not seem that this way [is correct] . . .<sup>57</sup>

In contrast, the Chida, in the name of his illustrious grandfather,<sup>58</sup> in reference to the proper time to take off one's *tefillin*, asserts just as forcefully:

The reason is hidden, but revealed to the Kabbalists. It is fitting to follow this practice even if one does not understand the reason. For the Divine commandments have their intrinsic effect and make an impression above, even without the specific intention. However, a person should still have the general intention that he is doing this action to fulfill God's command.<sup>59</sup>

Yet, the Chida is not necessarily in disagreement, as he is speaking about the effect of following kabbalistic practice with simple piety, without attempting to fathom its depth. In fact, in his own discussion of the "26 *challo*s" issue<sup>60</sup>

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55. Responsa R'eim, 61. M. Benayahu, op. cit., pgs. 70-71, frames the historical context of the responsa. The R'eim was the Rav of the native community of Constantinople that followed the Romanesque halachic traditions, at the time that the Spanish exiles came with conflicting Sephardic traditions.

56. *Shenei Luchos Habris, Shabbos, Ner Mitzvah*.

57. *Elya Rabah* 274.

58. Author of *Chesed L'Avraham* on Tosefta.

59. *Birkei Yosef* O.C. 25, 14.

60. *Machazik Beracha* O.C. 274.

he maintains that the *Elya Rabah* only admonished against the recitation or contemplation of kabbalistic intentions by the uninitiated and not against the practices themselves.

This distinction would explain why many kabbalistic practices that do not require special intentions are widely incorporated by the Poskim, though they lack Talmudic source. To cite two examples, the Bais Yosef rules, based solely on the *Zohar*, that the *yod* knot of the arm *tefillin* should not be separated from the *tefillin*.<sup>61</sup> He also bases his ruling that the esrog should be shaken together with the other three species on the writings of the Kabbalist Rabbi Menachem Rekanati.<sup>62</sup>

A common feature of these and other numerous examples is that they do not involve sophisticated intentions that might lead a person to err in matters of faith. Rather, they can easily be understood as religious enhancements. In this vein, the *Magen Avraham* cites the kabbalistic practice of passing the *netilas yadayim* cup to the right hand.<sup>63</sup> This can simply be explained as accentuating the importance of emulating the Almighty in His attribute of Chesed, Lovingkindness, represented by the right hand. Similarly, the *Magen Avraham* reports that the Ari-zal would stand and give *Tzedaka* (charity) daily during the *pesukei dezimra*, as he recited the words "You rule over all."<sup>64</sup>

## 12. A Fourth Principle of the Radvaz

The *Mishna Berurah*<sup>65</sup> adds one more principle from the Radvaz that is not explicit in the *Magen Avraham's* formulation. This principle<sup>66</sup> states:

Also, in a case in which there is a dispute among the Poskim, the words of the Kabbalists are decisive.<sup>67</sup>

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61. *Shulchan Aruch O.C.* 27, 2.

62. *Ibid.* 651, 10.

63. Quoted in note 49.

64. *Magen Avraham O.C.* 51, 7.

65. *O.C.* 25 *ad loc.*

66. Quoted by the *Chacham Tzvi* in the above responsum.

67. *Responsa Radvaz* Vol. 4, 8.

This principle also needs clarification, for we have seen the Rema's insistence, based on the Radvaz himself, that when the Poskim rule one way we pay no heed to the Kabbalists. This holds true even when a dissenting minority challenges the consensus of Poskim.

It is instructive, then, to examine the context of the Radvaz's response regarding the issue of donning *tefillin* on Chol Hamoed. In his responsum, the Radvaz determines that this controversy parallels an unresolved controversy among the Rishonim about whether Chol Hamoed labors are prohibited by the Torah or as a rabbinic safeguard.<sup>68</sup> Only in this issue, where both positions are equally weighted in Halacha, did the Radvaz grant the kabbalistic opinion a decisive weight.<sup>69</sup> Clearly then, the intent of the Mishna Berurah is only that in situations unresolved by normative halachic processes should the Kabbala be a prevailing voice. Thus, in Ashkenazic tradition, this fourth principle has a narrow application.

### 13. The Authority of Ari-zal

In regards to the authority of Ari-zal to resolve matters of dispute, Rabbi Moshe Feinstein opined:

Behold, the authority of the Kabbala to decide halachic dispute refers to the *Zohar* and the *Tikkunim*, which are the works of the Tannaim. However, the writings of the Ari-zal and the *Pri Etz Chaim*, with all their greatness, are to be considered as Poskim whose opinions may be disputed even in matters pertaining to Kabbala. It is not for us, orphans of orphans, to decide whose opinion is authoritative. Therefore, his words have no more decisive power than those of our other Rabbis.<sup>70</sup>

In stark contrast, the Chida and many other Sephardic authorities interpreted this fourth principle of the Radvaz as a broad empowerment of

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68. If they are Torah based, then the whole of the festival would be considered an "Oz"—a holy sign—and the wearing of the sign of *tefillin* would be superfluous and even insulting to the day.

69. The Radvaz also states there that he rules in this manner because it is a case of *shev v'al taaseh*.

70. *Igros Moshe O.C.* 4, 3.

kabbalistic teachings, especially those of the Ari-zal, to determine correct practice. This can be seen in the halachic discussion around the recitation of the *beracha*, *Hanosein La'Yaef Koach*. Rabbi Yosef Karo rules in the *Shulchan Aruch* that this *beracha*, which is not mentioned in the Talmud, should not be recited.<sup>71</sup> This ruling is based on the principle of *Safek Berachos Lehakel* (When in doubt we do not recite a blessing).<sup>72</sup>

Now, according to a well-known Sephardic tradition, which has no parallel in Ashkenazic tradition the rulings of Maran, as the author of the *Shulchan Aruch* is called, enjoy an almost exclusive halachic authority. In this case, particularly, his opinion should hold sway, as the principle of *Safek Berachos Lehakel* is based on a concern that by reciting the *beracha*, he may be taking Hashem's name in vain. In fact, this principle is so axiomatic that it is applied even when the Bais Yosef himself rules to recite a controversial *beracha*! And yet, the Chida writes:

Now the custom has spread to recite this *beracha* according to the writings of the Ari-zal. Even though we have accepted the rulings of Maran, we presume that if Maran had seen the opinion of the holy Ari, he would also advise to make the *beracha*. In addition, the *Kenesses Hagedola* writes that there is someone who heard that Maran changed his opinion at the end of his days.<sup>73</sup>

Following in this tradition, the *Ben Ish Chai* cites several other examples of long-accepted rulings of the *Shulchan Aruch* that have been superseded by new customs based on the writings of the Ari-zal. He concludes that when the Ari-zal provides sufficient kabbalistic reasoning to support his position and there are normative halachic sources in alignment with his view, the Halacha should follow him even in a case of a doubtful *beracha*, and even against the ruling of *Mara*.<sup>74</sup> It is important to note that this startling approach is not universally accepted by all Sephardic authorities.<sup>75</sup>

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71. O.C. 46, 6.

72. When we are in doubt about whether to recite Hashem's name in a Beracha, we abstain.

73. *Birkei Yosef* O.C. 46,1.

74. *Ben Ish Chai*, *Beraishis*, 10; *Respona Rav Pealim* Vol. 2, 12.

75. See *Michtav L'Chizkiyahu* in *Sedei Chemed* Vol.7, page 33, column 4.

The approach is based on the following line of reasoning. We have noted above that disputes among the Poskim are often resolved by invoking the rule of the majority or by other general protocols. When a clear proof from the Talmud or an unquestioned precedent is produced, the results of these protocols may be put aside since the original doubt no longer exists. Those who grant extraordinary power to Ari-zal assert that his kabbalistic secrets are so compelling that they retroactively remove the doubt that was exhibited by the Poskim.<sup>76</sup> The Chida bolsters his position by asserting that Ari-zal's teachings were revealed to him by Eliyahu Hanavi.<sup>77</sup> Perhaps this can account for the Chida's seemingly presumptuous conjecture that if the *Bais Yosef* had been aware of the teachings of the Ari-zal, he would have accepted them.

As a leader of the Jewish community in Baghdad, the *Ben Ish Chai* relied on this principle to change the time-honored custom of the Kohanim in his synagogue. He opted to follow the opinion of the *Shulchan Aruch* that Kohanim must begin the first word of their Beracha without a prompt from the Chazzan. The established custom was to wait for a prompt from the Chazzan. The altering of established custom for more conventional halachic reasons is in itself a rare step; the altering of a custom established by the *Shulchan Aruch* to bring it into alignment with kabbalistic insight has, therefore, provoked much halachic controversy among Sephardic authorities until our day.

## 14. Rav Ovadia Yosef

**I**n our times, Rav Ovadia Yosef has emerged as a champion of the ascendancy of the *Shulchan Aruch's* rulings, even when they appear to differ with the opinion of the Ari-zal. As a young man, he awakened a storm of debate when he differed publicly with some of the kabbalistically inclined rulings of the *Ben Ish Chai*. As noted, this is in line with the dissenting view of other Sephardic authorities from the time of the Radvaz.<sup>78</sup>

Rav Yosef also pointed out that the debate over the decisive power of the Ari-zal seems to be narrowly limited to matters of prayer, blessing, *tefillin* and

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76. Rabbi Bentzion Aba Shaul, Introduction to Responsa *Ohr LeTzion*, page 16.

77. Responsa *Chaim Sha'al* Vol. 2, 10, 3.

78. See note 23 and 63.

other areas of Divine service.<sup>79</sup> Indeed, in other sections of the *Shulchan Aruch* there is little reference to the *Zohar* and the kabbalists.<sup>80</sup>

As an interesting precedent, the *Bais Yosef* himself opines that we may depart from the ruling of the Talmud in matters of prayer, such as the formula of the Yom Kippur *Vidui*:

Even though this is reasonable on its own, I will bring an example to support it. It is known that all of our Poskim rule according to the Talmud . . . and anyone who calls himself a Jew is not allowed to swerve from the ruling of the Talmud . . . And yet there are areas that we disregard the word of the Talmud and rule like other rabbinic works . . . . I will bring examples. The Talmud writes that we read from the blessings and curses on a fast day, yet we read *Va'yechal* according to *Maseches Sofrim*. Also on Rosh Chodesh Elul that falls on a Shabbos . . . .we read one of the seven Haftorahs of consolation according to the *Pesikta* . . . . And the reason is that in these areas that do not relate to "the forbidden and the allowed" we may rule with what appears to us to be correct, even against the Talmud.<sup>81</sup>

## 15. Summary

**F**rom the publication of the *Zohar* in the 13<sup>th</sup> Century, the Poskim have met the challenge of a back-to-front integration of its teachings into an already mature and highly structured halachic system. Fortunately, they were guided by precedents that governed the integration of other works of the oral tradition that were not redacted together with the Talmud Bavli. Like these other works, the *Zohar* was drawn upon to enrich, clarify and resolve, but not to contradict, the clear dictates of the Talmud.

Where the outcome of the Talmudic text is not explicit, and thus is subject to the interpretation of the Rishonim, Ashkenazic and Sephardic traditions diverge. Following the Rema, the majority of Ashkenazic authorities only grant decisive powers to the Kabbala in cases that are not easily resolvable through normative

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79. Responsa *Yechave Da'as* vol. 4, page 224.

80. See introduction to Responsa *Maamar Mordechai*, Rabbi Mordechai Eliyahu.

81. Responsa *Avkas Rochel*, 28.

processes. The majority of Sephardic authorities, following the *Bais Yosef*, grant the *Zohar* the power to clarify the authentic intention of the Talmud even when the Poskim take a different approach. The Sephardic tradition is further divided over the unique power of the Ari-zal to influence Halacha.

In many instances, the *Zohar* exhorts us to a more demanding level of observance than the Halacha as derived from the Talmud. With guidance, individuals may be encouraged to aspire to these observances, but they are not to be considered as binding on the community, unless specifically codified as such.

Guidance is the key. Only mature and learned Poskim are capable of serving as arbiters of these complex dynamics.<sup>82</sup>

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82. This English article is an extract of a larger Hebrew *Kontres* entitled *Mishkal Hachasidus*. Those interested in a PDF version of that work should please write the author at [kraines@telkomsa.net](mailto:kraines@telkomsa.net).